

TABLE OF CONTENTS

1.	ATTENDANCES & APOLOGIES (including Leave of Absence):	2
2.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:	2
3.	PUBLIC QUESTION TIME:	5
4.	PUBLIC STATEMENT TIME:	7
5.	PETITIONS & DEPUTATIONS:	8
6.	PRESIDENT’S REPORT:	8
7.	DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:	8
8.	RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:	8
9.	MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:	9
OCM037/09/12	REVISED COUNCIL POLICY G702 - SMALL VEHICLE FLEET (A1048)	9
OCM038/09/12	PROPOSED OVERSIZE SHED - LOT 204 ADAMSON STREET, MUNDIJONG (P01225/03)	10
OCM039/09/12	FINAL ADOPTION OF SCHEME AMENDMENT NO. 173 - LOT 9014 CLONDYKE DRIVE, BYFORD – REZONING PORTION OF LAND FROM COMMERCIAL TO RESIDENTIAL (SJ1212)	15
OCM040/09/12	REQUEST FOR LEAVE OF ABSENCE – COUNCILLOR JOHN KIRKPATRICK (SJ1001)	18
10.	URGENT BUSINESS:	18
11.	COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:	18
12.	CLOSURE:	19

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET, MUNDIJONG ON MONDAY, 10 SEPTEMBER 2012. THE SHIRE PRESIDENT DECLARED THE MEETING OPEN AT 7.00PM AND WELCOMED COUNCILLORS, STAFF AND MEMBERS OF THE GALLERY.

1. ATTENDANCES & APOLOGIES (including Leave of Absence):

IN ATTENDANCE:

COUNCILLORS: B Moore Presiding Member
 M Harris
 D Atwell
 J Kirkpatrick
 S Piipponen
 C Randall
 M Ricketts
 B Urban
 G Wilson

OFFICERS: Mr R Gorbunow Acting Chief Executive Officer
 Mr B Gleeson Director Development Services
 Mr A Hart Director Corporate Services
 Mrs S van Aswegen Director Strategic Community Planning
 Mrs D Bridson Agendas and Minutes Officer

APOLOGIES: Nil

Members of the Public - 6
 Members of the Press - 0

2. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:

Bill Bishop, 49 Chestnut Road, Jarrahdale

During heavy rains our properties are awash. We get all the run-off from the properties at our rear, which are on higher ground. An easement for a 3mt drain has been draw in but never constructed.

Q1. Why the increase in the special rate for residents of the Chestnuts for the special drainage maintenance? They have gone up from \$98 to \$374 this year. This maintenance is for drainage of drains that don't even exist. So why have we been charged for maintenance when we don't receive any drainage?

A1. The special rate has been charged to address the drainage maintenance and upgrade the drainage within the Chestnuts area to mitigate or reduce the risk of flood damage.

The maintenance costs are charged because there are 145 properties exposed to the risk of flood damage.

Jackie Quelch, 6 Truman Promenade, Byford

As a resident of The Glades and ratepayer I would like to express my concern at Council regarding the imposition of a Special Area Rating for The Glades residents.

Q1. *Why wasn't I notified of this by Council prior to you imposing this cost on me?*

The facts are that:

- *The residents were not advised of the Special Area Rating prior to its implementation; and*
- *The cost applied is too high. The Shire has applied a rate included in the rating calculation rather than perhaps an annual cost of \$70. Under the current rating assessment the amount being charged by Council is inflated at an approximate cost to an average of around \$140, which is what people are currently paying.*

A1. The Specified Area Rate option was first presented to Council in November 2011. It was also advertised in the Differential Rating Strategy in May-June 2012. The Shire acknowledges that communications to individual ratepayers regarding the Specified Area Rate could be improved.

Q2. *Why charge the residents when the lake has not even been constructed?*

The overall rates in Serpentine Jarrahdale are already ridiculously too high and this just added to their concerns.

A2. The Council resolution in November last year required the Specified Area Rate to be charged in the 2012/13 financial year. This was done as the Shire expects that construction of the infrastructure will be undertaken in this financial year, therefore the Specified Area Rate would be charged in the year of construction.

Q3. *I ask what Council will do to re-consider how the Special Area Rating is being applied and not charging anything until the lake is completed.*

A3. The Shire is looking at all options available and will be in discussions with the property developer to agree on a path forward that is suitable to all parties.

Q4. *Does this mean that no one else but The Glades residents can use the lake?*

A4. The Lake and surrounding Public Open Space is public infrastructure available to all users.

Q5. *How about giving pensioners a fair go?*

A5. Pensioners that are eligible for concessions under the State Governments pension concession scheme are entitled to a rebate of up to 50% for the Specified Area Rate.

Andrew Bantick, 10 Darby Way, Byford – Infrastructure at The Glades

Q1. *What are the yearly estimated maintenance costs and when do you anticipate major infrastructure costs to start?*

A1. The estimated maintenance costs including Asset Replacement Costs are \$310,000 per annum, which is made up of estimated maintenance costs of \$156,000 and Asset Renewal costs of \$154,000.

The development approval was for two years from November 2011, as with any Development Application the anticipated construction period is two years.

Q2. *What is the projected amount of money the Shire will receive before it takes over maintenance in five years and what does the Shire consider to be a considerable amount of money towards the upkeep? (Info note dates 23 July 2012)*
I haven't seen any costing for the maintenance of The Glades, just words not figures.

A2. At year five, it is anticipated that \$852,000 will be put aside in reserve to fund the Asset Renewal.

Q3. *Why has it taken so long for the Special Area Rate to be made public?*

A3. The Specified Area Rate option was first presented to Council in November 2011. It was also advertised in the Differential Rating Strategy in May-June 2012. The Shire acknowledges that communications to individual ratepayers regarding the Specified Area Rate could be improved.

Cheryl Giles, Millard Way, Byford

As a current resident of The Glades in Byford and a rate payer, I would like my concerns heard by the Council and for the Council to deal with the matter appropriately in regards to the implementation of a Special Area Rating.

This Council has always shown little respect to its ratepayers through its poor governance.

I have heard many concerns regarding the Council 'rates' and how the Council think they can get away with such ridiculous amounts imposed on new residents.

One concern stands in regards to the Special Area Rating that has been applied to an area without any consultation and applied to a lake that is not even there yet.

Over the next year, I am under the belief that the lake will be constructed and then for the next four years after that, LWP will be maintaining the lake. That is a period of five years until the SJ Shire is to put any money into the upkeep of the lake. Charging some residents now is not fair or justified.

Q1. *The Glades is not a private estate, therefore shouldn't all Byford residents be paying for the facilities that LWP is kindly building to drive people to 'want' to live in Byford?*

A1. The purpose of the Specified Area Rate is to charge a rate to ratepayers that directly benefit from the unique infrastructure that is within this estate. Over time, and as other development occurs, other parts of the Shire will be charged Specified Area Rates for their unique infrastructure.

Q2. *Why is Council charging the Glades residents 'now'? And why are adjoining areas going to be charged at a later stage? This is a form of discrimination to all Glades residents and a complete form of disrespect.*

The objection I have is not to a Special Area Rating, it is at the timing, manner and the amount introduced. The Lake is not even built yet or in the process of being built.

A2. The Council resolution in November last year required the Specified Area Rate to be charged in the 2012/13 financial year. This was done as the Shire expects that construction of the infrastructure will be undertaken in this financial year.

Q3. *Is it too much to ask for some common sense being applied by this Council and to treat your ratepayers with a little respect and no discrimination?*

I would like Council to consider making the following changes:

- *The 'levy' not be implemented until the lake is at the very least 'constructed'; and*
- *As each household is entitled to the same usage of the lake and other facilities, a reasonable request per household would be a \$70 fixed levy for all Byford residents and not a calculated levy.*

A3. Council will consider your comments and take them on board for discussion.

Q4. *If it is decided that these rates will be changed, what will happen to the rates we have already paid?*

A4. If the rate is changed the ratepayers would be credited if appropriate. This issue will be discussed at Policy Forum in September.

Mrs Lee Bond

Q1. *Is council responsible for the care and upkeep of the rainforest in Byford? If not, who is and who pays for it?*

A1. Yes, the Rainforest Drainage Reserve 37907 is a reserve vested with the Serpentine Jarrahdale Shire Council for which management is carried out by the Shire at a cost to the Shire in collaboration with the community, similar to all Council's Reserves.

Q2. *What is Council going to do about the misleading information which has been circulating for some time, and recently increased, regarding local volunteer bush fire brigades not being permitted to fight house fires, only bushfires?*

Perhaps Council should refer to section 39 paragraph (1) of the Bushfires Act 1994.

A2. The Shire maintains a high level of trained volunteer/council staff in structural fire fighting. The Shire's position on mobilisation arrangements is that all our fire brigades are mobilised to all structural fires in their areas. Council is aware of the Premier's announcement as a result of the Keely enquiry, where he announced there will be changes in the gazetted fire districts. Council is concerned that the announcement came out of left field without foundation, but as far as Council is concerned this will not affect our support for our volunteers who are highly regarded within this community.

Q3. *Is this Shire recycling the contents of our recycle bins? If not, why not? If yes, where is it being recycled?*

A3. In terms of the existing kerbside collection contract that the Shire has with Perthwaste, the contents of the recycle bins are collected by Perthwaste on a fortnightly basis and taken for sorting at their large recycling facility at Bibra Lake.

3. PUBLIC QUESTION TIME:

Public question time commenced at 7.01pm.

David Houseman, 17 Clifton Street, Byford

At a previous Council meeting the Shire acknowledged that it had taken too long to name the laneways in the old quarter of Byford. Six years is too long,

Q1. Does the Shire acknowledge that this inaction is contravening its Structure Plan?

Shortly before the CEO's resignation, Joanne Abbiss acknowledged, in writing, the issue regarding the laneways and stated there was a potential for poor urban design outcomes and retention of streetscapes and that this issue needed to be resolved.

Unfortunately, poor urban design has already occurred with the Shire signing off subdivision approvals of lots abutting laneways and this continues to contravene its structure plan. Please view 20 Beenyup Road for a prime example of poor urban design. (Photograph provided).

Q2. Is this issue too complex for the Shire to undertake?

Q3. If so, can the Planning Department please call up one of the property developers currently building new estates in the Shire and ask them how they manage to name all of the roads and lanes within their development?

I have been asking the Shire to do this for over six years. No more excuses please. The old quarter of Byford deserves better! It is in a state of neglect.

The Shire President advised these questions will be taken on notice and responded to in writing. The Shire President stated that some Councillors and officers had recently completed a bus tour of some areas in Byford and it included the laneways.

Sandra Hawkins, 27 Burgess Drive, Byford, on behalf of the Byford Scarp Residents' Association

With reference to the circular that was from Tony Simpson MLA recently distributed to all households in the Byford area. It relates to the sum of money given by the State Government to the Serpentine Jarrahdale Shire in the 2010/2011 budget for the Percy's Place preservation (on Coulterhand Circle).

Q1. First of all I would like to know why this money has not been spent on the project?

Q2. Secondly, what is it that the Shire was going to do to the site?

Q3. Thirdly, why hasn't the Byford Scarp Residents' Association been involved with the proposed beautification?

Aspen have done all the work to date and I might add at no time was I or any of the committee asked to join with the Shire in the future discussion plans for the site. Councillor Randall will recall that every time I asked the question why we were not consulted I was told that in any future discussions we would be. Councillor Randall worked extremely hard to bring this project to fruition. I do recall that once I had a meeting with a lovely lady who was designing the area to be planted and unfortunately her plans did not even come close as to what was best suited for the area. She was going to use trees that would require copious amounts of water and her reasoning was they would look nice. So you can see why we need to be kept in the loop all the time.

Q4. Where is the money for that project?

The Shire President advised these questions will be taken on notice and responded to in writing.

Keith Whibley, 22 Cranbourne Way, Byford

In the 2009/2010 Serpentine Jarrahdale Shire budget highlights there was a \$100,000 contribution toward the construction of the Glades Community Centre.

Q1. Where are the funds now?

Q2. Who is constructing the building?

Q3. Who is paying for it?

Q4. When will it be built?

The Shire President advised these questions will be taken on notice and responded to in writing.

Public question time concluded at 7.08pm.

4. PUBLIC STATEMENT TIME:

Public statement time commenced at 7.08pm.

Sandra Hawkins, 27 Burgess Drive, Byford, on behalf of the Byford Scarp Residents' Association

Reference Scheme Amendment No. 173 Town Planning Scheme No. 2, Lot 9014 Clondyke Drive, Byford on the Scarp, WA, 6122.

The Byford Scarp Residents' Association members and the majority of the residents fully support the change in zoning from Commercial to Residential R40s for that site.

The reasons for this support have been outlined on several previous occasions but I will reiterate them as follows:

1. Although some of the residents would like to see a coffee shop or deli built on this small section of this development, none of them comprehend the costs involved in the initial outlay to establish a business. Especially whichever way the businesses are set up a) owning the building and business or b) renting the building.

For that reason we oppose any type of commercialisation as it will have the inevitability of failing and as such the building or buildings being vacant will attract the uninvited sections of the community whether they are from within the estate or from other areas.

2. Already developers are trying to establish large retail outlets in and around Byford so it would be entirely stupid to establish a satellite shop on the outskirts of the town.
3. The Wilaring Street entry will eventually be opened onto South Western Highway and with over three quarters of the traffic in and out of the estate, people will always take the shortest route and as the majority of them proceed in a northerly direction Clondyke Drive will become less congested.
4. As with the above reason this will obviously reduce the catchment for any type of business on Clondyke Drive.
5. There are still empty shops in Byford and we have not even built the huge complexes planned by the developers, Woolworths, Kmart and Coles, who propose to have their shopping centre completed first.
6. The majority of the residents have purchased on the Scarp to attain a quieter life style and at present it quite clearly is.

The conclusion is we support the change and do not oppose it in full.

Clayton Oud, 301 Lightbody Road, Mardella

I would just like to say thank you to the council and Acting Chief Executive Officer for listening to our concerns and coming up with a workable solution that solves our problems for the time being.

Public statement time concluded at 7.11pm.

5. PETITIONS & DEPUTATIONS:

Nil.

6. PRESIDENT'S REPORT:

I am pleased to announce "Lightbody Body" will be sealed this year after our Engineering Department, under the guidance of our Acting Chief Executive Officer, Mr Richard Gorbunow, have undertaken to seal all the road with one seal and follow up next year with a final seal. This will stop the experience of summer dust and finally complete the promise made to the affected residents as far back as 1998. Lightbody Road was named after Captain Robert Lightbody who was killed serving his country in the Second World War and one of five service people who council has honoured by naming a road after them. The Lightbody family are still prominent members of the Serpentine Jarrahdale Shire.

The Council, through its policy forum and ongoing dialogue, is re-addressing the controversial differential rating in the "Glades" and hopes to be able to resolve the issue where a more equitable rate is levied but also allowing sufficient reserves to address ongoing maintenance and eventual replacing after its life time. The residents are represented by LWP, Mr Phil Cuttone, who, with his consultants, is helping officers reinvestigate the original costing and maintenance requirements. It would be fair to say that in hindsight Council could have handled communication better and we are all looking forward to a satisfactory outcome to the problem.

7. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

Nil.

8. RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:**8.1 Ordinary Council Meeting – 27 August 2012****Moved Cr Harris, seconded Cr Piipponen**

There was an item on the agenda for 27 August 2012 that was still in the name of Joanne Abbiss, after she resigned and she wasn't the officer in charge at the time. The officer in charge at the time was the Acting Chief Executive Officer, Richard Gorbunow. The item in question was with regards to Councillor Entitlements.

CARRIED 9/0

Moved Cr Moore, seconded Cr Urban

The attached minutes, as amended, of the Ordinary Council Meeting held on 27 August 2012 be confirmed. ([E12/6066](#))

CARRIED 9/0

9. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:

OCM037/09/12	REVISED COUNCIL POLICY G702 - SMALL VEHICLE FLEET (A1048)
Author:	Lisa Fletcher - Organisational Improvement Officer
Senior Officers:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	20 August 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

Council is requested to adopt a revised Policy G702 - Small Vehicle Fleet.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

CGAM014/10/10 - Small Vehicle Fleet Policy.

COMMUNITY / STAKEHOLDER CONSULTATION

No community consultation was undertaken / required.

REPORT

Council recognises the need for a small vehicle fleet policy, which reflects current industry practice, is flexible and encourages staff attraction and retention by ensuring that the Shire remains an attractive and competitive employer where people want to work and will continue to work on an ongoing basis.

This policy has been revised in line with a recent change to the Fringe Benefits Tax legislation. There are two methods in which Fringe Benefits Tax can be calculated when a vehicle is provided to a staff member - the Statutory Method or the Actual Method. Previously the Shire has always used the statutory method for calculating the fringe benefits tax liability of vehicles as it produced the best outcome for the Shire. Staff were encouraged to ensure that the vehicle fleet was optimised at all times by actively reducing the Shire's fringe benefits tax liability.

Changes to the legislation has lead to the amount of kilometres being travelled in Council vehicles being irrelevant for calculating the fringe benefits tax liability using the statutory method as the statutory percentage used in the calculation is now applied as a flat percentage across the board. Therefore, there is nothing that the Shire can do to reduce its Fringe Benefits Tax liability when using the statutory method. Officers will determine each year whether the statutory method is more desirable than the actual method for calculating the Car Fringe Benefit Tax liability.

Conclusion

It is recommended that Council adopt the revised Policy G702 - Small Vehicle Fleet.

ATTACHMENTS

- [OCM037.1/09/12](#) - Current policy (E12/2228)
- [OCM037.2/09/12](#) - Revised policy (E12/2229)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

Council's Plan for the Future has placed an emphasis on strong and visionary Leadership throughout the organisation through continually updating its policy portfolio to respond to emerging issues.

STATUTORY ENVIRONMENT

- *Fringe Benefits Tax Assessment Act 1986*

FINANCIAL IMPLICATIONS

Management of the Shire's small vehicle fleet is considered in the annual budget. Officers will determine each year which method for calculating the Car Fringe Benefit Tax liability is most beneficial for the Shire.

VOTING REQUIREMENTS ABSOLUTE MAJORITY

OFFICER RECOMMENDATION

That Council adopt revised Policy G702 - Small Vehicle Fleet as per attachment OCM037.2/09/12.

OCM037/09/12 COUNCIL DECISION/Revised Officer Recommendation

Moved Cr Wilson, seconded Cr Piipponen
That Council:

- 1. Adopt revised Policy G702 - Small Vehicle Fleet as per attachment OCM037.2/09/12.**
- 2. Agree to renumber Policy G702 to G004 - Small Vehicle Fleet.**

CARRIED BY ABSOLUTE MAJORITY 9/0

OCM038/09/12	PROPOSED OVERSIZE SHED - LOT 204 ADAMSON STREET, MUNDIJONG (P01225/03)
Author:	Helen Maruta - Planning Officer
Senior Officers:	Louise Hughes - Manager Statutory Planning Brad Gleeson - Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

Proponent:	Siobhan Kenny
Owner:	As above
Date of Receipt:	11 July 2012
Lot Area:	1.34ha
TPS Zoning	Urban Development
MRS Zoning	Urban
Use Class & Permissibility	Single Residence – Incidental Development (AA)
Structure Plan	Mundijong Whitby District Structure Plan

EXECUTIVE SUMMARY

The application initially proposed to seek approval of an oversize outbuilding of 147m², being 14m by 10.5m, with a wall height of 2.4m and roof height of 4.32m. In addition to the existing outbuildings the proposed would result in a combined total floor area of 187m². The applicant provided information that the purpose of the large outbuilding was for storage of

personal items including storage of several domestic hobby motor vehicles, parts, tools and machinery. It was also their intention to improve the aesthetics of the property viewed from the street and by the neighbours as all the vehicles were currently in the paddocks.

The oversize shed of 147m², including the existing outbuilding of 40m², will exceed the 60m² floor area limit by 127m², being 55m² greater than the 20% variation (72m²) to the 60m² acceptable outbuilding size for the Urban Development zone, prescribed in Local Planning Policy 17 (LPP 17) and Local Planning Policy 35 (LPP 35).

In view of the variations that were being sought officers considered the proposal to be largely inconsistent with the provisions set out in LPP 17 and the Residential Design Codes of Western Australia, Clause 6.10.1, and provided the opportunity for the applicant to consider modifying the proposal to achieve a reasonable compliance with the relevant policy requirements. The applicant resubmitted modified plans for a shed with a total floor area 110.25m².

The proposal is presented to Council for consideration as officers have no delegation to determine the variations. The lot sizes in this area are large and it is recommended that the revised proposal be conditionally approved.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

There is no previous Council decision relating to this application.

COMMUNITY / STAKEHOLDER CONSULTATION

The application was referred to adjoining landowners for a period of 21 days. During the advertising period; no submissions were received.

REPORT

Proposal

The proposal currently before Council is for the construction of an oversize and over height shed. The variations that were being sought by the applicant include the following:

- 1) A total combined floor area of 150m² being 90m² greater than the as of right 60m² acceptable combined outbuilding floor area in the Urban Development Zone; and
- 2) A ridge height of 4.32 metres greater than the 4.2 metres as of right acceptable outbuilding ridge height (4.2) in the Urban Development Zone.

An assessment of the proposal against the relevant statutory framework is detailed below.

LPP 17 Residential and Incidental Development

Table 3.1 setbacks dwellings, outbuildings, swimming pools, carports patios gazebos verandahs etc.

Policy Requirement	Required	Proposed	Comments (Complies/Variation Supported/Condition Required)
Setbacks			
Primary Street	6m	24m	Complies
Rear	6m	80	Complies
Side	1.5m	7.4m	Complies

Floor Area (combined total floor area of all outbuildings)	Max. 60m ²	150m ²	Variation - Supported. The proposal is considered to have sufficient merit, having had regard to the large size of the lot being 1.34ha. Council has consistently considered it reasonable to allow larger blocks in a Residential Zone to have a larger floor area for outbuildings without impacting on adjoining neighbouring properties. The property contains a significant amount of mature vegetation which will provide adequate screening to the shed. It is anticipated that the proposed structures are not likely to have an adverse affect on the amenity of the area.
Wall Height	Max. 2.4m	2.46m	Variation – supported as it falls within the 20% acceptable variation prescribed under LPP 17.
Roof Height	Max 4.2m	4.32	Variation – supported as the overall height of the barn style shed is only 12cm above the limit.

LPP 35 Residential Development**Part 6.10 – Incidental Development Requirements**

Objective: To ensure that (a) outbuildings and fixtures attached to buildings do not detract from the streetscape, or the amenity of the development or that of adjoining residents; and (b) adequate provision is made for incidental facilities serving residents' needs.

Policy Requirement	Comments
i) Compliance with Clause 6.10.1 A1 i) to iv) of the R-Codes regarding outbuildings;	Acceptable Development provisions including: <i>(iii) Collectively do not exceed 60m² or 10% of site area whichever is lesser.</i> The proposed shed is larger than the 60m ² , however, Council has consistently found it reasonable to allow larger blocks to have a larger floor area for outbuildings without impacting on adjoining neighbouring properties. The property has significant vegetation to provide screening of the shed from view of the street and neighbouring properties.
ii) Compliance with Clause 6.8.1 A1 of the R-Codes relating to privacy (ie no detrimental privacy impacts to abutting properties)	This provision of the R-Codes relates to dwellings only.
iii) Compliance with Clause 6.9.1 A1 of the R-Codes relating to solar access (ie no detrimental overshadowing impacts to abutting properties)	This provision of the R-Codes relates to dwellings.
iv) Compliance with Clause 6.9.2 A2 of the R-Codes relating to stormwater disposal (ie accommodating stormwater disposal onsite)	This provision of the R-Codes relates to stormwater disposal. No proposals were submitted at this stage but the size of the shed will require stormwater retention on the property or re-use methods such as rainwater tanks to capture stormwater runoff.

In support of the proposal, the applicant provided the following information regarding justification for the oversize:

- *We require a workshop of this size for the storage of speedway cars, parts, tools and machinery;*
- *My husband and son both race speedway. At the moment their race cars are in the middle of one of our paddocks under tarps. These cars are out in the elements in an unsecured environment;*
- *As you can imagine maintaining these vehicles they also require to have spare parts, tyres etc on hand for maintenance during the race seasons. All of this is also out in the elements unsecured;*
- *My husband also has tools etc out in the open under a carport as this is the only undercover area we have to try and keep it all out of the weather. All of this is visible from the road and completely unsecure;*
- *From a street appeal point of view it is very unattractive to look at our property from the road side and see cars sitting in the middle of paddocks and parts etc visible from the road. We would like to be able to have all of this in a secure workshop and at the same time be able to maintain a neat and tidy property as are all of our neighbouring properties;*
- *All of our neighbouring properties have large workshops, some have 2. We are the only property in our immediate area to not have a large workshop. We are more than willing to provide photographic evidence if it is required; and*
- *We have also opted to spend extra money in the construction of the workshop so that it is a more attractive design, than just a standard shed design, so that we can keep with the rural look of the area.*

Comment

LPP 17 contains provisions to consider variations to the applicable development standards, subject to the applicant providing justification, a decision being made by officers on the potential impact of the proposal on the amenity or character of the area and variations in excess of 20% being presented to Council for a determination. Council in determining the application needs to consider a number of matters, in particular:

1. The Policy provisions stipulated under LPP 17 Residential and Incidental Development and LPP 35 Residential Development; and
2. The potential impact on the amenity and character of the area; and whether sufficient justification has been provided.

The applicant provided information that the necessity for the height and size of the proposed shed is for the storage of private vehicles equipment and increase of a flexible working area. Officers are of the opinion that the justification of the proposal is acceptable and can be considered as representing 'incidental development' to 'Single Residence' in terms of use class for the land.

The surrounding properties generally have existing large storage sheds consistent with the current proposal. Whilst the roof height of the shed is above the standard development requirements under LPP 17 (4.2m) the variation has been considered to be insignificant considering that the overall height of the shed 3.6m. The design of the shed being a barn style has a desirable outcome in terms of its general appearance and achieves added aesthetics of the property viewed from the street and the neighbouring properties.

In terms of addressing the potential impact on the character and amenity of the area, officers are of the opinion that the proposed revised variations are considered to be reasonable having regard to the size of the block. The overall size and height of the shed and its general impact on the adjoining properties is considered minimal. The proposal is therefore,

considered not likely to cause any adverse effect in the locality and the general character and amenity of the area.

Options and Implications

There are a number of options available to Council in considering the proposed development application:

- Option 1: To approve the application, subject to conditions; or
- Option 2: To refuse the application.

Option 1 is recommended.

Conclusion

It is considered reasonable to support the variations as the shed is considered not likely to adversely affect the amenity of the general locality and the streetscape. It is recommended that the application be conditionally approved.

ATTACHMENTS

- [OCM038.1/09/12](#) - Locality plan, floor plan, site plan and aerial photograph (E12/6039)
- [OCM038.2/09/12](#) - Schedule of materials and finishes (E12/6040)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

Council's Plan for the Future has placed an emphasis on the preservation of rural land and requires a consideration towards the viability of rural land uses in all aspects of development.

STATUTORY ENVIRONMENT

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- Town Planning Scheme No. 2

FINANCIAL IMPLICATIONS

There are no financial implications relating to this proposal.

VOTING REQUIREMENTS Simple Majority

OCM038/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Wilson, seconded Cr Urban
That Council:

Approve the application for the construction of an oversize and over height shed on Lot 204 Adamson Street, Mundijong, subject to the following conditions:

- 1. The extent of development to be consistent with that shown on the approved plans attached to and forming part of this approval;**
- 2. All storm water to be disposed of within the property. Direct disposal of storm water onto roads, neighbouring properties, water courses and drainage lines is prohibited. Re-use of stormwater by rainwater tanks is encouraged;**

3. The shed is not be used for any commercial or industrial purposes, including home occupation, or the parking of a commercial vehicle unless the written approval of the Shire has been obtained; and

4. The shed is to be constructed in accordance with submitted schedule of colours and materials.

CARRIED 9/0

OCM039/09/12	FINAL ADOPTION OF SCHEME AMENDMENT NO. 173 - LOT 9014 CLONDYKE DRIVE, BYFORD – REZONING PORTION OF LAND FROM COMMERCIAL TO RESIDENTIAL (SJ1212)
Author:	Louise Hughes - Manager Statutory Planning
Senior Officers:	Brad Gleeson - Director Development Services
Date of Report:	18 August 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

Proponent Taylor Burrell Barnett
 Owner: Aspen Group
 Date of Receipt: 12 March 2012
 Lot Area: 6750m²
 Town Planning Scheme No. 2 Zoning: Commercial
 Metropolitan Region Scheme Zoning: Urban

EXECUTIVE SUMMARY

The Shire received a proposal for a Scheme amendment to rezone a portion of Lot 9014 Clondyke Drive, Byford from “Commercial” to “Residential”, in essence, increasing the residential component of the site. At the Ordinary Council Meeting held on 23 January 2012, Council resolved to initiate the Scheme Amendment 173 resulting in the required advertising being undertaken.

This report is presented to Council with a recommendation that the Scheme Amendment be finalised without modifications.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

Ordinary Council Meeting item SD092/01/12 – 23 January 2012

COMMUNITY / STAKEHOLDER CONSULTATION

Prior to commencement of advertising, Amendment 173 was referred to the Environmental Protection Authority (EPA) under Section 48A of the *Environmental Protection Act*. The EPA advised in writing that the Amendment did not warrant assessment under Part IV Division 3 of the *Environmental Protection Act 1986* and did not find it necessary to provide any advice or recommendations.

Scheme Amendment 173 was advertised for public comment and referred to all government agencies for a period of 42 days starting on 10 May 2012 and closing on 22 June 2012. Advertising was undertaken in the following manner:

- All landowners within Byford on the Scarp Estate and Government Agencies were advised in writing of the proposal;
- Notices were placed on Council’s notice boards;

- The proposal was made available on the Shire’s website;
- An advertisement was placed in the Examiner newspaper; and
- A sign was placed on the subject site.

As a result of advertising, 25 submissions were received. 12 submissions were from government agencies, one submission from a Residents Group and 12 public submissions.

The main issues raised by members of the public are as follows:

- The lack of convenience stores that residents were told would be available on that land;
- Developer covenants regarding colour schemes;
- The increased residential density; and
- Double storey developments.

REPORT

The subject land is located on Clondyke Drive and has frontage to South Western Highway and Diamantina Boulevard, Byford. Byford townsite is located approximately two kilometres to the north of the land.

The subject site is currently zoned “Commercial, Residential, Public Open Space” in Town Planning Scheme No. 2 (TPS 2). The Public Open Space (POS) element comprises a strip of land approximately 11 metres wide which runs parallel with South Western Highway.

The land is vacant with the exception of the “Byford on the Scarp” sales office, which is presently located on the corner of Clondyke Drive and Diamantina Boulevard.

Submissions

The proposed amendment seeks to rezone a portion of the site from “Commercial” to “Residential” with a density code of R40, and include an additional use of “Residential” with a density of R40 to the remaining “Commercial” zoned land.

The main concerns raised by residents are regarding privacy and overlooking from any proposed dwelling. This would be addressed when the development application is lodged and is subject to the Residential Design Codes of Western Australia. Given the greater density rating, a detailed area plan would also be required.

With a portion of land remaining commercial there is still the ability for development of a small delicatessen, cafe or newsagency. The subject land has previously been marketed as commercial and the lack of commercial interest indicates that it is not a viable proposition for any “larger” style shopping development.

The “Residential” zoning of the land will enable the development of a more diverse range of housing not currently provided for within the estate. The additional use on the “Commercial” site will also provide flexibility for site development by maintaining a commercial capability whilst allowing such uses to be mixed with, where appropriate, residential uses.

The proposed amendment is considered to be compatible with the surrounding estate on the basis that it will give flexibility for the development of mixed use in the “Commercial” zone should the need arise. There is support from the community for a commercial presence to be maintained to service the local daily needs of the community.

Additional residential development at a higher density will assist in supporting commercial land uses and would add to the mix of housing types and maintain a diversity of activity promoted by the commercial development.

By maintaining the existing “Commercial” zoning of the land, the range of land use possibilities are retained allowing for a singular or small mix of commercial uses to service community needs. The “Residential” zoning is consistent with surrounding land uses; therefore it is unlikely to impact on the amenity of the area or be considered an undesirable precedent. It is recommended that Amendment 173 be adopted without any modifications.

ATTACHMENTS

- [OCM039.1/09/12](#) - Locality plan and aerial photograph (E12/5869)
- [OCM039.2/09/12](#) - Plan showing the existing zoning (E11/4790)
- [OCM039.3/09/12](#) - Plan showing the proposed zoning (E11/4791)
- [OCM039.4/09/12](#) - Schedule of submissions (E12/2834)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

The proposal is considered to be consistent with the Plan for the Future as it makes provision for higher density housing with a commercial element which is considered to be sustainable in terms of provision of local services and employment opportunities.

STATUTORY ENVIRONMENT

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- TPS 2
- Metropolitan Region Scheme

FINANCIAL IMPLICATIONS

All costs will be borne by the proponent.

VOTING REQUIREMENTS Simple Majority

OCM039/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Wilson, seconded Cr Urban
That Council:

- 1. Endorse the Schedule of Submissions in attachment OCM039.4/09/12 prepared in respect of Amendment 173 to Serpentine Jarrahdale Shire Town Planning Scheme No.2.**
- 2. Pursuant to Section 75 of the Planning and Development Act 2005 amends the Serpentine Jarrahdale Shire Town Planning No.2 by:**
 - a) Rezoning portion of Lot 9014 Clondyke Drive, Byford from “Commercial” to “Residential R40”;**
 - b) Adding an additional use of “Residential” to Lot 9014 Clondyke Drive, Byford, as indicated on the Scheme Amendment map;**
 - c) Add the following text to Appendix 6 – Additional Uses of the Scheme Text:**
 - 4.(a) Portion of Lot 9014 Clondyke Drive, Byford;**
 - (b) Residential;**
 - (c) 1. Residential development shall be in accordance with R40 residential density code;**
 - 2. Noise issues are to be addressed in accordance with State Planning Policy No. 5.4 – Road and Rail Transport Noise and Freight**

Considerations in land Use Planning, or its equivalent successor Policy;

3. Development on the site is to facilitate the protection of significant remnant native vegetation;
4. Any residential development on that portion of land zoned Commercial shall only occur where it is progressed in conjunction with commercial development;
5. Residential development shall not occur without or before commercial development; and
6. Residential development shall only be incidental to a predominant commercial use.

(d) Amend the Scheme Maps accordingly.

3. Authorise the signing and sealing of the amendment documentation and the forwarding of said documentation to the Western Australian Planning Commission, along with the endorsed schedule of submissions and steps taken to advertise the amendment, with a request for the endorsement of final approval by the Minister for Planning.
4. Advise those persons who lodged a submission during the comment period of Council's decision.

CARRIED 9/0

OCM040/09/12	REQUEST FOR LEAVE OF ABSENCE – COUNCILLOR JOHN KIRKPATRICK (SJ1001)
Author:	Councillor John Kirkpatrick
Senior Officer:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	28 August 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

Councillor John Kirkpatrick has requested a leave of absence from 14 September to 6 October 2012.

VOTING REQUIREMENTS Simple Majority

OCM040/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Piipponen, seconded Cr Harris

That Council grant Cr Kirkpatrick leave of absence from 14 September to 6 October 2012.

CARRIED 8/0

Cr Kirkpatrick did not vote.

10. URGENT BUSINESS:

Nil.

11. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:

Cr Wilson asked if Council has a list of members that are in the Byford on the Scarp Residents' Association and similar groups.

12. CLOSURE:

There being no further business the meeting closed at 7.28pm.

I certify that these minutes were confirmed at the
Ordinary Council Meeting held on 24 September 2012.

.....
Presiding Member

.....
Date